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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,030	11/27/2000	Ronald Kronenbeger		5660

7590

04/03/2002

WOOD, PHILLIPS, VAN SANTEN, CLARK & MORTIMER
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EXAMINER

MORAN, KATHERINE M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 04/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,030

Applicant(s)

KRONENBEGER, RONALD

Examiner

Katherine M Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 6-8 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 9-22 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

- ✓ 1. Claim 10 is objected to because of the following informalities: line 2: delete "the visor".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5, and 9-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Dow (U.S. 5,903,921). Dow '921 discloses the invention as claimed. Dow teaches headgear 36 with front and rear portions, crown 40 with a head-engaging portion extending through 360 degrees, and foam visor 44 projecting in a forward direction away from the crown, wherein the visor has a relaxed state and a first width dimension taken transversely to a fore-and-aft line and a cylindrical deformed state in which the visor has a second width dimension taken transversely to the fore-and-aft line, that is less than the first width dimension. Figure 8C shows an embodiment with at least one holding element in the form of a string material 56, fully separable from the headwear piece, which maintains the visor in a deformed state with the second width dimension. In the alternative, band 46,48 has first and second parts joined together by hook and loop 22,26. In both cases, the crown may be folded against itself, the visor, or against itself and the visor. The deformed state of the visor defines a cylindrical shape, and at least part of the crown is

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capable of being held within the cylindrical shape. The crown may also comprise a head-engaging portion which extends through less than 360 degrees, such as in a visor 10.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Barbaccia (U.S. 5,991,927). Barbaccia '927 discloses the invention as claimed. Barbaccia teaches a headwear piece 10 having a front and rear, crown, and visor 12 projecting in a forward direction away from the crown. The visor has a relaxed state with a width dimension taken transversely to a fore-and-aft line and a deformed state with a second width that is less than the first width dimension, and at least one continuous band 20 maintaining the visor in a deformed state with the second width dimension.

Allowable Subject Matter

5. Claims 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 4, 6-8, 24 are allowed.

Response to Arguments

7. Applicant's arguments filed 2/27/02 have been fully considered but they are not persuasive. Applicant argues that the embodiment of Fig. 1 of Dow does not teach or suggest any separate holding element as recited. Fig. 8C shows a cap with a separable holding element 56. Applicant also argues that Barbaccia does not teach or suggest folding a part of a crown forwardly towards a visor. Barbaccia teaches that it is common to display caps in storage or on a

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hat rack. In order to conserve space, this configuration dictates that the rear of the crown portion is folded inward toward the peak. In a deformed state, the crown of Barbaccia is capable of being folded towards the visor.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm and alternating Fridays.

The fax number for the organization where this application is assigned is (703)308-0758.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (703) 308-1148.

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March 26, 2002

A handwritten signature in black ink, appearing to read "Peter Norbun". The signature is fluid and cursive, with the first name "Peter" and last name "Norbun" clearly distinguishable.

Peter Norbun
Primary Examiner